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NOTES OF CASES.

Rule as to Adaptability of Land as Element of Damages in Condemnation Proceedings.—*New York v. Sage*, 239 U. S. 57, this was a proceeding brought by the city of New York for the condemnation of land for the Ashokan reservoir. The Supreme Court of the United States, Mr. Justice Holmes delivering the opinion of the court, limited the rule that in condemnation proceedings the adaptability of the land to the purpose for which it can be used most profitably is to be taken into consideration on the question of damages, by saying that adaptability is to be considered only so far as it would have been considered by the public if the land had been offered for sale in the absence of the city's exercise of the power of eminent domain. The court further said, however, that "the fact that the most profitable use could be made only in connection with other land is not conclusive against its being taken into account, if the union of properties necessary is so practicable that the possibility would affect the market price. But what the owner is entitled to is the value of the property taken, and that means what it fairly may be believed that a purchaser in fair market conditions would have given for it in fact—not what a tribunal at a later date may think a purchaser would have been wise to give, nor a proportion of the advance due to its union with other lots. The city is not to be made to pay for any part of what it has added to the land by thus uniting it with other lots, if that union would not have been practicable or have been attempted except by the intervention of eminent domain. Any rise in value before the taking, not caused by the expectation of that event, is to be allowed, but we repeat, it must be a rise in what a purchaser might be expected to give."

Res Ipsa Loquitur—Application—Patton v. Public Service Ry. Co., 227 Fed. 810.—The court in this case, in speaking of the maxim *res ipsa loquitur* and the application of it made by the plaintiff, said: "Recognizing the lack of testimony upon the element of negligence, the plaintiff urged that the case is one in which the maxim of *res ipsa loquitur* applies. This maxim does not relate to a situation susceptible of proof yet not capable of proof merely because of the absence of witnesses. It applies where the accident itself bespeaks negligence, that is, where the accident is such as necessarily to involve negligence, and for that reason further proof of negligence is not required. The circumstances connected with the death of the plaintiff's husband, in so far as they are disclosed, do not show that it was necessarily occasioned by the negligence of the defendant. It may have been occasioned by negligence of his own, or may have been the result of pure accident, in which no negligence was present."